

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-1683-MWD-E TCEQ ID: RN101917516 CASE NO.: 34804
RESPONDENT NAME: City of Gorman

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Gorman WWTP, located southwest of the City of Gorman, west of Farm-to-Market Road 79 (Crescent Street), Eastland County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 10, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Thomas Jecha, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-2576; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Robert Ervin, Mayor, City of Gorman, P.O. Box 236, Gorman, Texas 76454 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 4, 2007</p> <p>Date of NOV/NOE Relating to this Case: October 12, 2007 (NOE)</p> <p>Background Facts: This was a routine record review.</p> <p>WATER</p> <p>1) Failed to comply with the permitted effluent limits for biochemical oxygen demand (5-day) and total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10091001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failed to submit monitoring results at the intervals specified in the permit. Specifically, the sludge report for the monitoring period ending July 31, 2006 was not submitted by September 1, 2006 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 10091001 Sludge Provisions].</p>	<p>Total Assessed: \$5,022</p> <p>Total Deferred: \$1,004 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$133 (remaining \$3,885 due in 35 monthly payments of \$111 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit the Sludge Report for the monitoring period ending July 31, 2006; and</p> <p>b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with TPDES Permit No. 10091001, Effluent Limitations and Monitoring Requirements No.1 and Ordering Provision a.</p>

Additional ID No(s): TPDES Permit 10091001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

DATES	Assigned	15-Oct-2007	Screening	17-Oct-2007	EPA Due	
	PCW	17-Oct-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Gorman
Reg. Ent. Ref. No.	RN101917516
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34804	No. of Violations	2
Docket No.	2007-1683-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Thomas Jecha
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$3,100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 70% Enhancement **Subtotals 2, 3, & 7** \$2,170

Notes Enhancement for 13 NOVs with self-reported effluent data and one NOV with same or similar violations at this facility within the past five years.

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction **Subtotal 5** \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Subtotal 6 \$0

Total EB Amounts	\$217
Approx. Cost of Compliance	\$2,100

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$5,270

OTHER FACTORS AS JUSTICE MAY REQUIRE -5% **Adjustment** -\$248

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes Recommended penalty reduction so that the monthly self-reported violations do not overly impact the penalty amount and to prevent the double counting of self-reported violations.

Final Penalty Amount \$5,022

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$5,022

DEFERRAL 20% Reduction **Adjustment** -\$1,004

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY \$4,018

Screening Date	17-Oct-2007	Docket No.	2007-1683-MWD-E	PCW
Respondent	City of Gorman	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	34804	<i>PCW Revision March 19, 2007</i>		
Reg. Ent. Reference No.	RN101917516			
Media [Statute]	Water Quality			
Enf. Coordinator	Thomas Jecha			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)			
Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	14	70%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
Adjustment Percentage (Subtotal 2)			70%
>> Repeat Violator (Subtotal 3)			
No			Adjustment Percentage (Subtotal 3) 0%
>> Compliance History Person Classification (Subtotal 7)			
Average Performer			Adjustment Percentage (Subtotal 7) 0%
>> Compliance History Summary			
Compliance History Notes	Enhancement for 13 NOVs with self-reported effluent data and one NOV with same or similar violations at this facility within the past five years.		
Total Adjustment Percentage (Subtotals 2, 3, & 7)			70%

Screening Date 17-Oct-2007

Docket No. 2007-1683-MWD-E

PCW

Respondent City of Gorman

Policy Revision 2 (September 2002)

Case ID No. 34804

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101917516

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10091001, Effluent Limitations and Monitoring Requirements No. 1.

Violation Description

Failed to comply with permitted effluent limitations as documented during a record review conducted on September 4, 2007. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow and total suspended solids were also considered. As a result of this violation, human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed protective levels.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

179 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$208

Violation Final Penalty Total \$4,860

This violation Final Assessed Penalty (adjusted for limits) \$4,860

Economic Benefit Worksheet

Respondent: City of Gorman
 Case ID No: 34804
 Reg. Ent. Reference No: RN101917516
 Media: Water Quality
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	31-May-2006	30-Jun-2008	2.1	\$208	n/a	\$208

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$2,000

TOTAL \$208

Screening Date 17-Oct-2007

Docket No. 2007-1683-MWD-E

PCW

Respondent City of Gorman

Policy Revision 2 (September 2002)

Case ID No. 34804

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101917516

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. 10091001, Sludge Provisions.

Violation Description

Failed to submit monitoring results at the intervals specified in the permit. Specifically, the sludge report for the monitoring period ending July 31, 2006 was not submitted by September 1, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$100

One annual event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$162

This violation Final Assessed Penalty (adjusted for limits) \$162

Economic Benefit Worksheet

Respondent: City of Gorman
 Case ID No. 34804
 Reg. Ent. Reference No. RN101917516
 Media: Water Quality
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/Construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	1-Sep-2006	30-May-2008	1.7	\$9	n/a	\$9

Notes for DELAYED costs

Estimated cost to submit the missing report. Date required is the date the sludge report was due and the final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$9

Effluent Limit Violation Table

table rev.

Respondent	City of Gorman
ID Number(s)	TPDES Permit No. 10091001; Enf Case No. 34804
Docket Number	2007-1683-MWD-E
Enf. Coordinator	Thomas Jecha

Corresponds to Violation Number: 1

EFFLUENT PARAMETER

Permit Limit

	BOD - Daily Avg Conc	TSS - Daily Avg Conc											
Month/Year	30mg/l	90mg/l											
5/31/2006	37	c											
11/30/2006	32	c											
12/31/2006	c	95											
2/28/2007	49.75	c											
3/31/2007	38	c											
4/30/2007	45.75	c											

milligrams per liter = mg/l
total suspended solids = TSS
5-day biochemical oxygen demand = BOD
compliant = c

Compliance History

Customer/Respondent/Owner-Operator:	CN600643985	City of Gorman	Classification: AVERAGE	Rating: 2.22
Regulated Entity:	RN101917516	CITY OF GORMAN	Classification: AVERAGE	Site Rating: 2.22
ID Number(s):	WASTEWATER	PERMIT	WQ0010091001	
	WASTEWATER	PERMIT	TPDES0021806	
	WASTEWATER	PERMIT	TX0021806	
	WASTEWATER LICENSING	LICENSE	WQ0010091001	
Location:	SW of GORMAN, W of FM 79 (Crescent Street), Eastland County, Tx		Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prep:	October 15, 2007			
Agency Decision Requiring Compliance	Enforcement			
Compliance Period:	October 15, 2002 to October 15, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Thomas Jecha	Phone:	512 239 2576	

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 10/30/2002 (164442)
 - 2 12/04/2002 (164445)
 - 3 01/27/2003 (164451)
 - 4 02/26/2003 (164417)
 - 5 03/28/2003 (164420)
 - 6 04/28/2003 (164425)
 - 7 02/17/2004 (297949)
 - 8 04/05/2004 (353171)
 - 9 04/16/2004 (297950)
 - 10 02/22/2005 (382403)
 - 11 03/21/2005 (382404)
 - 12 04/18/2005 (420259)
 - 13 02/14/2006 (450923)
 - 14 02/17/2006 (469346)
 - 15 03/24/2006 (469347)
 - 16 08/11/2006 (497565)
 - 17 02/20/2007 (576628)
 - 18 03/27/2007 (576629)
 - 19 04/09/2007 (576630)
 - 20 04/12/2007 (576631)
 - 21 06/01/2007 (562754)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/28/2003 (164420)

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 03/31/2003 (164425)

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 02/29/2004 (353171)

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 01/31/2005 (382403)

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 01/31/2006 (469346)

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 02/15/2006 (450923)

Self Report? NO

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: PERMIT WQ0010091-001

Description: Failure to maintain the bar screen.

Self Report? NO

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ0010091-001

Description: Failure to maintain the accuracy of the effluent flow meter.

Self Report? NO

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ0010091-001

Description: Failure to meet permit effluent limits for BOD, TSS, dissolved oxygen and pH based upon a twelve month record review of DMR data.

Self Report? NO

Classification Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.4

Description: Failure to analyze for dissolved oxygen as specified by the permit.

Self Report? NO

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ0010091-001

Description: Failure to maintain a record of daily inspections at the wastewater treatment plant.

Self Report? NO

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ0010091-001

Description: Failure to correctly calculate loading values reported on the discharge monitoring reports.

Self Report? NO

Classification Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to maintain calibration records for the pH meter and dissolved oxygen meter.

Self Report? NO

Classification Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.6

Description: Failure to analyze duplicate dissolved oxygen readings in order to meet quality assurance/ quality control requirements.

Self Report? NO

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ0010091-001

Description: Failure to correctly report self-reported effluent data on the April 2005 DMR.
Date 02/28/2006 (469347)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 05/31/2006
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 11/30/2006
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 12/31/2006
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 02/28/2007
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 03/31/2007 (576631)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 04/30/2007
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 06/30/2007
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF GORMAN
RN101917516**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1683-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Gorman ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment plant located southwest of the City of Gorman, west of Farm-to-Market Road 79 (Crescent Street) in Eastland County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about October 17, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Twenty-Two Dollars (\$5,022) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The City has paid One Hundred Thirty-Three Dollars (\$133) of the administrative penalty and One Thousand Four Dollars (\$1,004) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the City to pay all or part of the deferred penalty.

The remaining amount of Three Thousand Eight Hundred Eighty-Five Dollars (\$3,885) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Eleven Dollars (\$111) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the City fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the City to meet the payment schedule of this Agreed Order constitutes the failure by the City to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10091001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on September 4, 2007 and shown in the table below.

	BOD (Daily Average Concentration)	TSS (Daily Average Concentration)
<i>Month/Year</i>	30 mg/L	90 mg/L
5/31/06	37	c
11/30/06	32	c
12/31/06	c	95
2/28/07	49.75	c
3/31/07	38	c
4/30/07	45.75	c

TSS = Total Suspended Solids	BOD = Biochemical Oxygen Demand (5-day)	c = compliant
mg/L = Milligrams per liter		

2. Failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 10091001 Sludge Provisions, as documented during a record review conducted on September 4, 2007. Specifically, the sludge report for the monitoring period ending July 31, 2006 was not submitted by September 1, 2006.

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Gorman, Docket No. 2007-1683-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the City shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit the Sludge Report for the monitoring period ending July 31, 2006, in accordance with the requirements of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 10920001. The report shall be submitted to:

Compliance Monitoring Team (MC 224)
Enforcement Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with TPDES Permit No. 10091001, Effluent Limitations and Monitoring Requirements No.1 and Ordering Provision No. 2.a. above. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager, Water Section
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes

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aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very important document, as it contains the President's annual message to Congress. The letter is written in a formal, dignified style, and it is one of the most important documents in the history of the United States.

2. The second part of the document is a report from the Secretary of the Interior, dated January 3, 1862. It is a very important document, as it contains the Secretary's annual report to the President. The report is written in a formal, dignified style, and it is one of the most important documents in the history of the United States.

3. The third part of the document is a report from the Secretary of the Treasury, dated January 3, 1862. It is a very important document, as it contains the Secretary's annual report to the President. The report is written in a formal, dignified style, and it is one of the most important documents in the history of the United States.

4. The fourth part of the document is a report from the Secretary of the War, dated January 3, 1862. It is a very important document, as it contains the Secretary's annual report to the President. The report is written in a formal, dignified style, and it is one of the most important documents in the history of the United States.

5. The fifth part of the document is a report from the Secretary of the Navy, dated January 3, 1862. It is a very important document, as it contains the Secretary's annual report to the President. The report is written in a formal, dignified style, and it is one of the most important documents in the history of the United States.

6. The sixth part of the document is a report from the Secretary of the State, dated January 3, 1862. It is a very important document, as it contains the Secretary's annual report to the President. The report is written in a formal, dignified style, and it is one of the most important documents in the history of the United States.

7. The seventh part of the document is a report from the Secretary of the War, dated January 3, 1862. It is a very important document, as it contains the Secretary's annual report to the President. The report is written in a formal, dignified style, and it is one of the most important documents in the history of the United States.

8. The eighth part of the document is a report from the Secretary of the Navy, dated January 3, 1862. It is a very important document, as it contains the Secretary's annual report to the President. The report is written in a formal, dignified style, and it is one of the most important documents in the history of the United States.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

3/5/2008

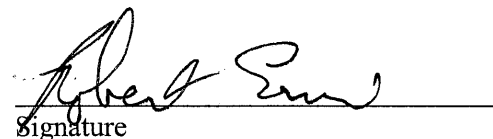
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

12-20-07

Date

ROBERT ERVIN

Name (Printed or typed)
Authorized Representative of
City of Gorman

MAYOR

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

DECLASSIFICATION

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DATE 01-11-2001 BY 60322 UCBAW

EXCEPT WHERE SHOWN OTHERWISE, THIS DOCUMENT IS UNCLASSIFIED
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